

C O P Y

in opinion

11 F

October 27, 1954

Miss Ruth G. Morgan
Acting Labor Commissioner
State Department of Labor
Concord, New Hampshire

Dear Miss Morgan:

You have inquired as to whether a municipality which has a fire department composed of both paid and volunteer firemen can file an acceptance of the Workmen's Compensation Act with respect to paid firemen only, excluding from such acceptance the volunteer firemen.

It is the opinion of this office that such a procedure is within the contemplation of section 6 of Revised Laws, chapter 216, as amended by chapter 266 of the Laws of 1947, and is, therefore, valid. Section 6 reads as follows:

"6. Election by Municipalities. Any county, city, town, school district, or any other district established by law, may accept for designated or for all workmen in its employ, the provisions of this chapter, and it shall thereafter be liable to such workmen for any injury arising out of and in the course of employment in the manner provided in this chapter. The liability of any county, city, town, or district accepting said provisions shall not otherwise be enlarged or extended. The acceptance for a county may be made by the commissioners thereof, for a city by the city council, for a town by the selectmen thereof, for a school district by the school board thereof, and for any other district by the commissioners thereof or other officers having by law the management of such district. Such acceptance shall be filed with the commissioner."

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This section permits acceptance for designated or for all workmen. The procedure outlined above would appear to be sanctioned by this section. While situations are conceivable where acceptance on behalf of certain employees and rejection on behalf of others might constitute unlawful discrimination, this case does not fall within that class.

Very truly yours,

Elmer T. Bourque
Law Assistant

ETB/aml